

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 LUIS M. CERVANTES-
12 TAMAYO,

13 Petitioner,

14 v.

15 JAMES WALKER, Warden,

16 Respondent.

17 } Case No. SACV 08-1056 JHN(JC)
18 } (PROPOSED) ORDER ADOPTING
19 } FINDINGS, CONCLUSIONS, AND
20 } RECOMMENDATIONS OF
21 } UNITED STATES MAGISTRATE
22 } JUDGE

23 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of
24 Habeas Corpus by a Person in State Custody (the “Petition”) and all of the records
25 herein, including the attached Report and Recommendation of United States
26 Magistrate Judge (“Report and Recommendation”), and petitioner’s objections to
27 the Report and Recommendation (“Objections”). The Court has further made a *de
novo* determination of those portions of the Report and Recommendation to which
28 objection is made.¹ The Court concurs with and adopts the findings, conclusions,
and recommendations of the United States Magistrate Judge and overrules the
Objections.

1This Court, in an exercise of its discretion, declines to consider new evidence and
arguments presented for the first time in the Objections. See United States v. Howell, 231 F.3d
615, 621 (9th Cir. 2000), cert. denied, 534 U.S. 831 (2001).

1 IT IS ORDERED that the Petition is denied on its merits, that respondent's
2 Motion to Dismiss is denied as moot, and that Judgment be entered denying the
3 Petition and dismissing this action with prejudice.

4 IT IS FURTHER ORDERED that the Clerk serve copies of this Order, the
5 United States Magistrate Judge's Report and Recommendation, and the Judgment
6 herein on petitioner and counsel for respondent.

7 LET JUDGMENT BE ENTERED ACCORDINGLY.

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9 DATED: March 28, 2011

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11 HONORABLE JACQUELINE H. NGUYEN
12 UNITED STATES DISTRICT JUDGE

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